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## ORIGIN OF THE FRIAR LANDS QUESTION IN THE PHILIPPINES

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When the American government found itself in possession of the newly acquired portions of Spain's colonial empire, and particularly of the Philippines, it was forced to deal with many new and hitherto unfamiliar problems. Social, political and ecclesiastical characteristics were encountered there which were entirely foreign to American governmental traditions, but which were interwoven in the fabric of Philippine institutions and society by three centuries of Spanish rule. Among these was the universally recognized strength and importance of the ecclesiastical power, which in Spanish days had been fostered and protected by the state. Under the new conditions the ecclesiastical organization had to stand by itself, without governmental support.

Probably the most difficult problem which had to be solved was the celebrated friar land question. Thousands of hectares of the best land in the archipelago were owned or held by the religious orders. The friars had held these lands for centuries. The economic effect of these holdings was detrimental on account of the prohibitive rents which were demanded for them. The religious orders would not sell these lands of their own accord, and thus the Filipino agriculturists who desired to utilize them were prevented either from buying or renting. The government was also at a loss, since no taxes were paid on the lands of the church. This state of affairs was held by the American authorities to be inconsistent with the best interests of the Filipino people, and with the ideals of a free government. Mr. Taft made arrangements with the Holy See for the purchase of these lands, and thus the American government, by forcing the friars to sell, put an end to a problem which had been a cause of con-

tention, not only under the new sovereignty, but through two centuries of Spanish rule.

Not only was the struggle over friar lands interesting and important as a series of events which actually occurred in the Philippines, New Spain and the viceroyalties of South America, and therefore characteristic of the entire Spanish colonial empire, but it involved certain principles which lay at the foundations of the relations between church and state there. The early attempts of the government to exercise jurisdiction over the friars in the matter of the inspection of their titles to lands, and the urgent pretensions of the orders to exemption on the grounds of ecclesiastical immunity, like the struggle over episcopal visitation, were only a recurrence in the Philippines of a conflict which has arisen in every country where church and state have been united and where the influence of the former has been predominant in political affairs.

At various times during the history of the islands the attention of the home authorities in Madrid had been called to the abuses of the religious orders in their tenure of lands. The general complaint was that the friars had laid claims to lands without title, and that through the seizure both of the lands of the natives and of royal domains, in addition to properties granted them by the crown, they had become extensive landlords. It was said that they had imposed heavy rentals on the natives who occupied these estates and that they had frequently dispossessed persons whose titles and right of occupation had been unquestioned before that time. They were accused of the alienation of the lands which the king had permitted them to occupy, and this proceeding was contrary to the conditions under which they were permitted to hold the royal estates. These abuses had become so flagrant that during the latter part of the seventeenth century the government at Madrid determined that something must be done to remedy this state of affairs, and it was decided that all occupants of royal lands, and all persons claiming lands on their own account should be called upon to prove their right of tenure. In accordance with this resolution

a *cédula* was promulgated on June 7, 1687, directing the Philippine audiencia to make an investigation of the friar lands of the islands, and to report to the council of the Indies on the amount, value and rental of all properties held by the religious orders.<sup>1</sup> Furthermore, the king asked for an estimate of the amount of land actually required by the orders for their support. The audiencia was governing temporarily when this order was received, and in compliance therewith it commanded that each *alcalde mayor* should investigate the friar lands in his district. This was accordingly done and the audiencia reported in due time to the council of the Indies.

It must not be imagined that this situation was confined alone to the Philippines. The above investigation, which was conducted by the Philippine audiencia, may be considered as a part of a general enquiry into the validity of land titles in all of the colonies of Spain. Don Bernardino Valdés, of the council of the Indies, was given supervision over this matter in his commission as "*juez particular y privativo* for the collection of all sums due to the *real hacienda* in the viceroyalties of Peru and New Spain, through the purchase, sale and adjustment (survey) of lands, towns, villages and jurisdictions."<sup>2</sup> He was also given authority in the collection of "all fines and condemnations imposed by the Council and Cámara of the Indies and belonging to the royal exchequer, with the power of proceeding against all persons in these realms as well as in the Indies who are indebted to the king." He was empowered to subdelegate his authority to

<sup>1</sup> *Cédula* of June 7, 1687, with corresponding *testimonios*; A. I., 68-4-12.

<sup>2</sup> *Cédula* of October 30, 1692, King to Valdés; A. I., 68-4-12. In the words of the commission itself, Valdés was named "para poner cobro en los delitos que en el Peru y Nueva España resultaren en favor de la real hacienda por compras de villas, jurisdicciones ó qualquier bienes raices, ó cosa que se huviese, por venta, enagenado de la Corona, concediendole facultad de subdelegar estas comisiones en ministros de las audiencias de Indias y otras qualesquier personas de su satisfacción para recaudar los caudales que procediesen de estos efectos, y que se remitiesen por cuenta separada al mismo ministro, ó á el que le subcediese en la comisión que otorgase á las partes las apelaciones de sus sentencias á el Consejo de Indias, y que este sugeto la sirva assi y igualmente."

judges in the colonies. Appeals from them were to be heard in the council of the Indies.<sup>3</sup>

In the above *cédula* no mention was made of the church. There exists nothing in the wording or contents of this order to indicate that the church or friars were or had been offenders. Valdés was charged with the investigation of the titles to all lands, forests and estates, held by any person or corporation. If, within six months after the publication of the summons the possessors had not shown the legality of their occupancy, the estates were to become a part of the royal patrimony. The king gave expression in this *cédula* to the belief that in the Indies there was much land belonging to the crown which was occupied without title or justification, a condition contrary to the royal intentions, and in actual defiance of the laws of the Indies.<sup>4</sup> The abuse was increasing, the *cédula* alleged, and called for amelioration.

Don Juan de Sierra Osorio, *oidor* of the audiencia of Mexico, was commissioned by Valdés to investigate and verify the status of lands, royal, private, assigned and unassigned, which were held by different individuals and corporations in the Philippines.<sup>5</sup> He arrived and began his work at Manila in 1695.<sup>6</sup> According

<sup>3</sup> There was some doubt in the minds of the councillors regarding the question of whether appeals should be entertained by the *juez privativo* or by the Council itself, and whether said *juez* should render account for money collected from fines directly to the Council or to the *Real Contaduría*. The *cédula* of 1692, referred to above, established the authority of the Council, but the subsequent resolution of November 13, 1717, declared that everything pertaining to *real hacienda* should be remitted *vía reservada*, without the intervention of the Council of the Indies. Two *consultas* were sent by the Council to the King on September 28, 1735, and October 30, 1736, respectively, asking for a royal resolution on the subject, and presenting arguments on both sides of the question. The matter was settled by the royal decree of November 16, 1737, which declared that thereafter the *juez de composiciones* should render account directly to the King, *vía reservada*, but that appeals in these cases should be entertained by the Council of the Indies. A. I., 141-4-5.

<sup>4</sup> *Recopilación de Leyes de Indias*, Lib. 4, tit. 12.

<sup>5</sup> Camacho Controversy, in Blair and Robertson, *Philippine Islands*, XLII, 26.

<sup>6</sup> Concepción, *Historia General de Philipinas*, VIII, 192. Concepción gives this date as 1675, but he contradicts himself by a subsequent discussion of

to his commission he was subdelegated "the cognizance and settlement of (questions relating to) the lands and possessions, which, by sale or gift, have been alienated from the royal patrimony and dominion of (the) king."<sup>7</sup>

The lands of the church were not specifically mentioned in the commission of Valdés, neither were they referred to in that of his subdelegate, Sierra. However, there can be no question but that the conditions of land-holding by the friars constituted a grave problem in the Philippines, and that it was the royal will that the abuses of the religious should be remedied. This is evidenced by the fact that the issuance of Sierra's commission immediately followed the receipt at Madrid of the report of the *audiencia*, and that while in the Philippines Sierra directed the greater part of his attention to correcting the evils in the tenure of lands by the friars.

Father Concepción, however, states the object of Sierra's mission in terms more favorable to the churchmen, and in complete accordance with the commission of Valdés. According to the Augustinian historian, Sierra "was commissioned to collect certain debts due to the king, which had resulted from the sale of crown lands; (to ascertain) whether they (the friars) had alienated them, giving them away as gifts, and to see if any person or community possessed any royal lands without title, or if there had been usurpation; . . . he (Sierra), in the name of His Majesty, gave them a year in which to remedy the matter, and to prove their claims."<sup>8</sup> Even here, however, we note an

Sierra's relations with Archbishop Camacho in 1698. Sierra could not have been sent to the Islands by Valdés in 1675, because the latter was not commissioned until 1692.

<sup>7</sup> Papal Delegate to King, June 2, 1698; Blair and Robertson, *Philippine Islands*, LX, 33.

<sup>8</sup> Concepción, VIII, 192-206. This question gave rise to a bitter controversy in 1906, between the modern Filipino writer, Dr. T. H. Pardo de Tavera, and the Dominicans of the University of Santo Tomás of Manila. Dr. Pardo de Tavera, in his article in the *Philippine Census* (I, 340-346), on religious conditions in the Philippines prior to the American occupation, painted a very dark picture of the work and general influence of the friars in the history of the Islands. In answer, the Dominicans cited the above quotation from the work of Concepción, to prove that Sierra was not sent for the express purpose, as

admission on the part of the best ecclesiastical authority of the Philippines, always the champion of the church, that the object of the government was to correct abuses which had arisen in the land tenure of the friars. Whatever instructions Sierra may have had, he at once summoned the regulars to appear before him, and gave them a year in which to prove their right to the land occupied by them.<sup>9</sup> The friars, fortifying themselves with the Bull, *De la Cena*,<sup>10</sup> contended that Sierra had no authority over them by virtue of the ecclesiastical immunity afforded to them by the above papal decree.

The ecclesiastical standpoint in this matter is well expressed by the modern Dominicans of the Philippine Islands in the controversial article already referred to.<sup>11</sup> They agree substantially

Pardo de Tavera had alleged, of inspecting and verifying the friars' titles to lands. The statement to which the Dominicans took exception was as follows: "the King commissioned Auditor Sierra to compile data and send him a report as to the kinds of titles and descriptions of the valuable lands held by the friars, but the friars refused to furnish any information to the auditor, stating that they were exempt from any such formalities, and as . . . they were unable to prove the legality of their titles they were declared to be "occupants in bad faith." It has been noted above that neither Sierra nor Valdés were especially commissioned to investigate the titles to the friars' lands. See *Reseña histórica de Filipinas desde su descubrimiento hasta 1903*, by Dr. T. H. Pardo de Tavera (it being the original Spanish edition of the article in the Philippine Census), p. 37. See also the Dominican reply to the above: *Sobre una reseña histórica de Filipinas*, pp. 68-89.

<sup>9</sup> The modern historian of the Philippines, José Montero y Vidal, relates the object of Sierra's mission in terms still more unfavorable to the friars. He states that the lands referred to were the unassigned villages or lands belonging to the government, lands which had been usurped by the religious orders through the action of certain of their missionaries who had first evangelized among the Indians. Later, he says, the orders established themselves without troubling themselves as to titles.—Montero y Vidal, *Historia General de Filipinas*, I, 385.

<sup>10</sup> The Bull, *De la Cena* was issued by Pope Urban VIII in 1627. It censured those temporal authorities who usurped the ecclesiastical jurisdiction, revenues, incomes and properties.—Footnote by Middleton in Blair and Robertson, *Philippine Islands*, XLII, 26.

<sup>11</sup> *Sobre una reseña histórica*, 65-66. This work states that Sierra later declared them to be holders in bad faith, and that, to enlist support for this denunciation, he went out among the Indians, stirred up strife among them, obtained testimony against the friars by dint of blows, beatings and unheard of cruelties, and thus proved them to be usurpers.

with Concepción, upon whose history they base their contentions. They allege that it was never the purpose of the regulars to deny the right of the king, that the friars did not at any time oppose the royal jurisdiction, but that they always abided by the laws and complied with the requirement that they should submit their titles for confirmation. However, they assert that the regulars did object to appearing before Sierra, "like criminal defendants, in spite of the *fuero* of exemption; they demurred on the grounds that they and all their possessions were exempt from his interference, that they were not obliged to appear before any court and answer judicially; that this procedure was in violation of the ecclesiastical immunity which all their estates and possessions enjoyed."<sup>12</sup>

The friars appealed to the audiencia against the dictum of Sierra, on the complaint that he was exceeding the powers conferred upon him by his commission, and was consequently guilty of *fuerza*,<sup>13</sup> but the tribunal rejected the appeal and supported the *visitador* in his struggle against the friars. Sierra, at least for a time, had the sanction of Archbishop Camacho, who had arrived in 1697.<sup>14</sup> The regulars turned to this prelate for support, but at this particular time Camacho was not inclined to favor them, owing to their resistance of his efforts to enforce episcopal visitation. They then appealed to Bishop Gonzales, of Nueva Cáceres, the papal delegate. The latter entertained the appeal. He went to Manila in the interests of the friars, and immediately became involved in a struggle with the arch-

<sup>12</sup> Concepción, *Historia General de Philipinas*, VIII, 193, *et seq.*

<sup>13</sup> *Fuerza (recurso de)* "Apelación para ante el juez secular contra el abuso ó violencia que consta un juez eclesiástico."—Aleubilla, *Diccionario de Administración*, V, 807. A more simple definition is that furnished by A. P. Cushing, in Blair and Robertson, *Philippine Islands*, V, 292: "*Fuerza* is injury committed by an ecclesiastical judge, (1) in hearing a case which does not come within his jurisdiction, (2) non-observance of rules of procedure, (3) unjust refusal to allow an appeal. In such cases the aid of the secular courts may be invoked by the *recurso de fuerza*, and thus cases were brought before the Audiencia." It came about that, through association, the encroachment of the civil authority upon the ecclesiastical jurisdiction was also termed *fuerza*. It was so designated in this case.

<sup>14</sup> Montero y Vidal, *Historia General de Filipinas*, I, 385.



bishop, in the course of which the two prelates mutually excommunicated each other.<sup>15</sup> The delegate was finally overcome, however, because the audiencia supported the archbishop. Through the good offices of the governor and audiencia the prelates were respectively persuaded to cancel their censures, and Gonzales departed to his province, with his jurisdiction as papal delegate sadly impaired by the successful defiance of the archbishop, while the friars were none the better for his efforts.<sup>16</sup>

On May 16, 1697, the provincials of the five leading orders which had been most prominent in resisting the claims of the civil government, were summoned before the audiencia, and there the presiding judge administered to them a severe reprimand for their defiance of the royal commands. They were charged with responsibility for the disturbances which had just been quieted, and were pronounced insubordinate for refusing to recognize the royal right of intervention in the matter of the land titles, and in resisting episcopal visitation. An interested Jesuit, who wrote at that time to a friend in Spain, described the treatment accorded to the provincials by the audiencia as "without the courteous treatment and respectful address which his Majesty himself observes" in dealing with the churchmen.<sup>17</sup> The audiencia, further, in three successive edicts, threatened the provincials with banishment and deprivation of their regular incomes.

In the early part of the year 1698, Sierra, whose work had extended through a period of three years and whose efforts to make the friars submit their titles to the government for inspection had been fruitless, was succeeded by another *visitador*, Don

<sup>15</sup> It is said that on this occasion Archbishop Camacho tried to make a bargain with the regulars. In exchange for the right of visiting them, he offered to support their pretensions to exemption from governmental interference in the land controversy. Camacho, according to the Dominicans of the University of Santo Tomás, first resisted Sierra, but when the friars would not submit to visitation he changed his attitude and sided with the *visitador* against the regulars. *Sobre una reseña histórica*, 74-77.

<sup>16</sup> Papal Delegate to the Pope, June 2, 1698; Blair and Robertson, *Philippine Islands*, XLII, 33-42.

<sup>17</sup> Blair and Robertson, *Philippine Islands*, XLII, 31.

Juan Ozaeta y Oro, also from Mexico. The latter had instructions to modify the stringent demands of Sierra. One authority states that pressure was exerted by Governor Fausto Cruzat y Góngora, whose *residencia* was approaching.<sup>18</sup> At any event, according to the Dominicans referred to above, Ozaeta disapproved of all that Sierra had done with regard to the titles of the friars' lands, and requested, by *ruego y encargo*, that the friars, as a favor, and not in response to imperative summons, should present their titles extra-judicially before the secular court.<sup>19</sup> The regulars complied with this request without offering any objections. The *oidor* found the titles to be in proper legal form, and accepted them, thus substantiating the claims of the religious orders.<sup>20</sup>

The official letters of Ozaeta himself, dated September 16, 1698, which are sources of a non-ecclesiastical character, give conclusive evidence on the question of why he repudiated Sierra's acts and made peace with the friars.<sup>21</sup> He stated that a royal *cédula* of 1698 (no definite date, but probably his commission), forbade him, as an ordinary magistrate, to summon the friars before him,

<sup>18</sup> Montero y Vidal, *Historia General*, I, 388. Pardo de Tavera, *Philippine Census*, I, 342. Sierra was unquestionably superseded because his mission had failed to accomplish anything but discord. The government was obliged to accede to the friars in this controversy, as it was compelled to do in the struggle over ecclesiastical visitation. Ozaeta's work shows a change of policy similar to that revealed by the recall of Archbishop Pardo from exile by Governor Curuzalegui. (Blair and Robertson, *Philippine Islands*, XLII, 28; L, 155, note).

<sup>19</sup> The Dominicans, often cited in this paper, make the point that it was not within the province of the *visitador* to declare that the lands were not held in good faith. He was only empowered to decide whether the papers were executed legally and in good form. They point out that the titles have held good all these years; that the critical American government has examined and found them good (though it forced the sale of the lands on the grounds that the church should not continue to hold them), and they further quote Mr. Taft as having said that if the friar lands were not held in good title, there were no lands in the Philippines that were so held.

<sup>20</sup> The Dominican authors of the book quoted above allege that in making this statement they are in substantial agreement with all of the celebrated historians of the Philippines, including Concepción, Fonseca, Salazar, Zúñiga, Montero y Vidal, and, in fact, all except Dr. Pardo Tavera.

<sup>21</sup> Ozaeta to the Jesuit Provincial, September 16, 1698: A. I., 68-6-26.

and to examine them as criminals, as had been done formerly by Sierra. He was not to examine all their holdings, but only to direct his attention to excesses which had arisen, and to well-defined complaints which clearly alleged usurpation.<sup>22</sup>

In Ozaeta's settlement of the question the government was temporarily vanquished. For ten years no further attempt was made by the civil authorities to cause the friars to conform to the government's earlier pretensions. The continued hostility of the friars, and their unwillingness to submit their titles to inspection moved the king, in the *cédulas* of September 10, 1709, and November 20, 1714, respectively, to give a ten years' dispensation to the orders, excusing them during that period from further interference. Notwithstanding this, the government continued to appoint magistrates for the inspection of land titles. On June 12, 1723, Don Julian Velasco, *oidor* of the audiencia of Manila, and subdelegate judge for the inspection of land titles, made a report which summarized twelve years of unsuccessful effort to exercise jurisdiction over the holdings of the friars.<sup>23</sup> The report of Velasco testified that only the Augustinians, the Recollects, and the Order of St. John of God had submitted to Ozaeta in 1698, but that the latter had confirmed the titles of all the orders, whether they had acknowledged his jurisdiction or not.

<sup>22</sup> Dr. Pardo de Tavera says that Ozaeta pigeon-holed the matter, but the whole question was settled as shown above. The government merely moderated its claims, but it did not entirely desist from them at this time. See *Philippine Census* I, 342.

<sup>23</sup> Velasco to Audiencia, June 17, 1723; A. I., 68-6-26. This, and the documents relative to the commission of Ozaeta, described above, are to be found as *testimonios* bearing on a subsequent commission which was given to *Oidor* Calderón, presently to be referred to.

The fact that the inspection of the titles to friar lands was only a part of the work of the *juez de composiciones* has already been stated. It may be noted again in the appointment of Velasco at a time when the friars had been exempted. This was also true in other parts of Spain's dominions. On September 27, 1697, Licentiate Don Juan Feixoo Centellas, *oidor* of the Audiencia of Guadalajara and *juez de composiciones de tierras* for Nueva Galicia and Nueva Vizcaya, made a report showing that he had passed upon the titles of twenty-three estates since he had been in office, none of which were ecclesiastical. (Feixoo to Valdés, September 27, 1697, A. I., 67-1-7.) The *juez de composiciones de tierras* has a counterpart today in the Philippines and in the United States in the court of claims.

Because of this the audiencia decided on August 7, 1720, that those who had not submitted in 1698 should not be held as possessors in bad faith. The government showed the same disposition on this occasion as in 1698 to waive its former claims and to adopt a policy of conciliation. There can be no question but that the fear that the friars would leave the Islands if they were not permitted to enjoy complete and undisturbed possession of their estates did much to influence the government to modify its attitude in the matter of the friar lands, as well as in that of ecclesiastical visitation.<sup>24</sup> In his report of June 12, 1723, already referred to, Velasco recommended that further remissions be made, and that the claims of the government should be dispensed with for all time. He characterized the work of his predecessors as ineffectual, and asserted that a continuation of the effort by the government to interfere with the friar lands would continue to cause friction and ill feeling between the orders and the civil government. Velasco's recommendations were made to the king through the *real acuerdo*, which meant that they had the support of the royal audiencia.<sup>25</sup>

The controversy was re-opened in 1736, when the government made another attempt to cause the friars to prove title. Don Antonio de Pineda, a minister of the council of the Indies, was

<sup>24</sup> It must be remembered that while the government and the friars were having these differences, a much more transcendental struggle was in progress between church and state throughout the entire Spanish Empire over the question of ecclesiastical visitation. The two controversies must be considered in their inter-relation for a complete understanding of either. In the Philippines the conflict was as bitter as in any other part of the Empire, and the government had first supported the archbishop in the claims of the latter to the exercise of the prerogative of visitation. The orders would not recede from their position, however, and they threatened to leave the Islands if the prelate insisted. A great many did actually desert their parishes and come to Manila for the alleged purpose of debarkation for Spain. This alarmed the civil authorities, for, without the friars, the greater number of the parishes in the Philippines would have been without ecclesiastical occupants, on account of the paucity of secular priests. The government, therefore, receded from its position, and the friars emerged victorious in the struggle. (See my article on *The Question of Ecclesiastical Visitation in the Philippines*, in *The Pacific Ocean in History*. This paper was read at the session of the Panama-Pacific Historical Congress in July, 1915.)

<sup>25</sup> Velasco and Real Acuerdo to the King, June 12, 1723; A. I., 68-6-26.

entrusted with a commission of the same character as that which had formerly been given to Valdés.<sup>26</sup> Pineda named Licentiate Pedro Calderón Enriquez, *oidor* of the audiencia of Manila as his representative in the Philippines. The commission of Calderón was literally a transfer to the latter of Pineda's jurisdiction in Manila, "over all suits and questions which arise pertaining to the adjustment of lands, with appeal to the superintendent, and the collection of all dues for the lands belonging to his majesty, which have not been alienated with just title."<sup>27</sup> Calderón was instructed to send an itemized account of all funds collected to the royal *contaduría* at Madrid, *via reservada*.

In compliance with these instructions Calderón sent an official notice of his appointment to the provincials of the orders and societies on March 6, 1739, requesting that they place before him records and titles of all lands in their possession. This summons was variously received by the different orders. The Nuns of St. Isabel, the Recollects, Dominicans and Augustinians complied with the demands of the government during the course of the year, with the understanding that the question involved the regularity of their papers, and not the legality of their holdings. The Hospital of St. John of God, the Franciscan Order and the Society of Jesus held out, claiming ecclesiastical immunity, and citing the precedent which the government had followed since 1698. These recalcitrant orders charged Calderón with individual responsibility for this renewal of the governmental claim of the right to inspect the titles to their lands. They were confident that the king was still favorable to them, and that the action of the *visitador* would be disapproved by the sovereign. While the Franciscans refused to submit to the *oidor*, they complied to the extent of forwarding evidence of their titles directly to the council of the Indies, thus ignoring the *visitador*. The Jesuits, also, contended that the colleges should be exempted from the interference of the *oidor*.

Calderón, after a season of struggle with the orders, in which the above results were accomplished, made recommendations

<sup>26</sup> *Cédula* of September 27, 1736, the King to Pineda; A. I., 68-6-26.

<sup>27</sup> Pineda to Calderón, October 19, 1737; A. I., 68-6-26.

which were similar in many respects to those which Valasco had made in 1723.<sup>28</sup> He stated that the periodical attempt of the civil government to inspect the friars' titles had caused such universal hostility and ill feeling that it was advisable to discontinue the royal claims. The government's pretensions in this matter, as in its efforts to support the archbishop in the enforcement of the principle of ecclesiastical visitation, had always met with the most determined resistance, and had generally been defeated. This, he alleged, was due to the fact that the orders were firmly entrenched, and that the government had always been forced to make concessions to them in order to secure a continuance of their religious, social and educational labors. This was especially true, he stated, because the number of secular priests available to do this work was wholly insufficient. He commented on the low educational and moral standard of the Spanish and Filipino secular clergy, expressing the opinion that they should not be trusted to teach the natives either religion or morality. He recommended, therefore, that the friars should be left in possession of such estates as they had at that time, without the interference of the government except in cases of notorious injustice, which should be called to the attention of the authorities by judicial process. He was unwilling, however, to tolerate further encroachments, or the wholesale usurpation of the lands of the natives on the part of the friars. He claimed that it was his duty and right to intervene for the protection of the property of the natives, and for the correction of such abuses as might arise in the future. Suits of this nature should be tried in the *audiencia*.

Calderon continued to hold the commission for the inspection and supervision of lands for fifteen years, during which time he brought the friars to account on repeated occasions. The excesses of the Dominicans, Jesuits and Augustinians on the island of Luzon from 1740 to 1750 caused several native revolts which had to be put down by armed force. The abuses of the orders, thus revealed, led to various judicial investigations, their usurpa-

<sup>28</sup> Calderón to Pineda, May 29, 1739; A. I., 68-6-26.

tions were exposed and remedied, but no punishment seems to have been inflicted. The orders were deprived of the lands which they had seized, part of which were restored to the natives who had originally owned them, and part was declared to be the property of the crown. The Dominicans were also deprived of lands which they had usurped for the support of the University of Santo Tomás. Frauds were also exposed in the surveys of the lands of the Augustinians, by means of which this order was shown to have acted in collusion with certain civil officials, defrauding the government out of thousands of hectares of land.<sup>29</sup>

In a royal *cédula*, dated November 7, 1751, the king and council of the Indies formally approved of all that Calderón and the Manila audiencia had done in the above matters of the pacification of the Indian villages and the restoration of the lands to the rightful owners. In this *cédula* the Philippine authorities were commanded "to exercise hereafter the utmost vigilance in order that the Indians of the said villages may not be molested by the religious, and that the latter shall be kept in check in the unjust acts which they may in future attempt against not only those Indians but other natives of those islands."<sup>30</sup>

The audiencia of Manila, on receipt of this royal enactment, passed a resolution in September, 1753, communicating the contents of the *cédula* to the provincials of the orders of St. Dominic, St. Augustine, the Recollects, the Society of Jesus and to the prior of the convent of St. John of God. It also ordered that attested copies should be made and sent to the *alcaldes mayores* of the provinces, so that the decree might be translated into the language of the country and the natives informed of their status and of the wish of the king that they should not be molested further in the tenure of their lands.

From a legal point of view these latter activities of Calderón differed from those of the earlier years of his incumbency as *juez subdelegado de composiciones de tierras* and from those of

<sup>29</sup> Blair and Robertson, *The Philippine Islands*, XLVIII, 27-35; 141-145 (note).

<sup>30</sup> *Cédula* of November 7, 1751, Blair and Robertson, *The Philippine Islands*, XLVIII, 33.

his predecessors. His recommendations of May 29, 1739, were adopted by the government and no further attempt was made to cause the friars to conform to its earlier demands that all titles of lands held by the friars should be submitted periodically for confirmation. As has been pointed out already, the government was forced to modify its attitude because of the fear that the friars would cease their missionary and parochial labors. The government, it may be said, failed in its efforts to maintain as a principle the right to inspect periodically the land titles of the friars, though it successfully upheld the right to correct such abuses as were called to its attention through legal means. The orders were compelled to accede to the right of the civil government to intervene for the protection of the natives' lands in the latter case, and the jurisdiction of the *juez subdelegado* and of the *audiencia* was admitted on several occasions. The friars were unable to plead ecclesiastical immunity when brought before the civil tribunals to answer charges of fraud or unjust deprivation.

The right of the religious orders to the occupancy of their lands in the Philippines seems clearly established. The various conflicts between them and the civil government served to strengthen their claims, and they were finally confirmed in the right to hold their estates without molestation as long as they did not abuse the privileges which were conferred upon them. They were not even called upon to prove their titles after 1739, except when it was in their interests to do so. This exemption placed them on a higher plane than other individuals or corporations.

The church lands were temporarily alienated in 1834 and 1846, because of an interruption in the friendly relations between the Spanish government and the papal court. In 1851 the breach was healed and the Spanish government guaranteed to the church full rights to all its lands and properties, "to acquire, hold and enjoy in propriety, and without limitations or reserve, all kinds of possessions, values,"<sup>31</sup> etc. On December 4, 1890, the further right was conceded to the church and to the ecclesiastical cor-

<sup>31</sup> *Sobre una reseña histórica*, 84-89.



porations "to dispose of the holdings and possessions which they have in these provinces in accordance with the canon law and the legislation of the Indies." This was the status of the friar lands when the American government took possession of the islands.